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Supreme Court of the United States

October Term 1977

No. 77-68

PARKING REALTY CO. AND EAN ERIE,
FORMERLY HOPE VAN RIPER,
Petitioners,
v
HOWARD SHERLINE,
Respondent.

ON PETITION FOR WRIT OF CERTIORARI
TO THE SUPREME COURT OF MICHIGAN

BRIEF OF PLAINTIFF-RESPONDENT

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ON PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF MICHIGAN

BRIEF OF PLAINTIFF-RESPONDENT

To the Honorable Chief Justice and the Associate Justices of the Supreme Court of the United States.

Respondent, Howard Sherline, respectfully files the following brief in opposition to the Petition for Writ of Certiorari to the Supreme Court of Michigan filed by petitioners.

OPINION BELOW

As indicated in the Petition for Writ of Certiorari to the Supreme Court of Michigan (herein "the Petition"), no formal opinion was issued by the Michigan Supreme Court.

That court's Memorandum Order (attached to the Petition as Appendix A) explicitly states, however, that its consideration of the matter at hand was confined to a holding that ". . . plaintiffs-appellants have failed to persuade the Court that the questions presented should now be reviewed by the Court or that appellants will suffer substantial harm by awaiting final judgment or determination before taking an appeal." This Memorandum Order discloses no consideration by the Michigan Supreme Court of the substantive issue sought to be presented to this Court in the Petition.

JURISDICTION

The respondent accepts the statement of this Court's jurisdiction contained in the Petition. Pursuant to Supreme Court Rule 40(3), respondent makes no counter-statement thereof.

CONSTITUTIONAL PROVISIONS INVOLVED

Without conceding that the Petition properly raises an issue of constitutional dimension, respondent makes no counter-statement of the constitutional provisions cited therein.

COUNTER-STATEMENT OF QUESTIONS PRESENTED FOR REVIEW

1. Ought this Court to entertain the substantive issue raised in the Petition when the Supreme Court of Michigan has not considered that issue and this Court has previously denied an application by petitioners to seek its review?

2. Inasmuch as this Court has repeatedly recognized the right of a state to regulate the practice of law, does a state

prohibition against non-lawyers representing persons and entities other than themselves in its circuit courts present a substantial federal question?

3. Does a state's regulation of the practice of law, which reserves the privilege to practice law to natural persons and denies that privilege to fictional persons such as corporations, create a substantial federal question concerning the classification of persons under the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution?

COUNTER-STATEMENT OF THE CASE

Respondent Howard Sherline, individually and as trustee, is a minority shareholder in five corporations. He is a director and officer of each of those corporations. Dorothy Turkel is the majority shareholder in, and a director and officer of, each of those corporations. Petitioner Erie is her daughter, and is neither a shareholder, director or officer in any of those corporations. Respondent initiated this action below, alleging gross corporate mismanagement, and joined as defendants therein Ms. Turkel, Ms. Erie and the five corporations.

Ms. Turkel is an attorney licensed to practice in the State of Michigan; Ms. Erie is not. During the course of the proceedings in the trial court, the individual and corporate defendants have been represented, in succession, by three attorneys licensed to practice in the State of Michigan. Ms. Turkel has not been active, as an attorney, in the representation of the defendants.

In August, 1976, Paul J. G. Gravel, Esq., the second of defendants' three attorneys, filed a motion to disqualify the Honorable John M. Wise, the trial judge assigned to

hear this cause. The motion was first heard by Judge Wise, as provided by local court rule, and was denied. An interlocutory appeal from this ruling was sought by Mr. Gravel and dismissed by the Michigan Court of Appeals on the ground that Michigan General Court Rule 405.1 required that the matter first be considered by another judge of the same trial bench. Mr. Gravel was thereupon discharged as counsel to the defendants.

The defendants then retained Frederick B. Bellamy, Esq., who refiled the motion for disqualification in November, 1976. Pursuant to local court rule, this motion was assigned to the Honorable Roman S. Gribbs. In January, 1977, petitioner Erie filed a supplemental motion for disqualification which was also assigned to Judge Gribbs. Both motions were assigned for hearing on February 4, 1977. At that hearing, petitioner Erie discharged Mr. Bellamy as counsel and announced her intention to proceed on the motion for disqualification on behalf of herself, her mother and the five defendant corporations. Judge Gribbs indicated to petitioner Erie that he would entertain the motion as one made on her own behalf, but that, as a non-lawyer, she could not represent her mother or the five corporations. Judge Gribbs adjourned the hearing until February 15, 1977 to permit him an opportunity to review the hundreds of pages of material filed by Ms. Erie.

In the interim between February 4, 1977 and February 15, 1977, petitioner Erie sought emergency review by the Michigan Court of Appeals of Judge Gribbs' comments concerning her right to represent persons other than herself. That court denied her application by its Order dated February 15, 1977.

At the resumed hearing before Judge Gribbs on February 15, 1977, argument was offered on the motion for disqualification and Judge Gribbs gave his oral ruling thereon, denying the motion. A formal order denying the motion was entered by Judge Gribbs on March 4, 1977. A copy of that Order is annexed hereto as Appendix A.

Petitioners' account of these proceedings before Judge Gribbs, as set forth in their Petition, is erroneous in two respects. First, Judge Gribbs did not dismiss petitioner Erie's motion for disqualification "... on the ground solely that the motion was not presented by an attorney-at-law duly licensed to practice by the State of Michigan." (Petition at 1). To the contrary, Appendix A annexed hereto clearly discloses that Judge Gribbs considered the motion on its merits, as one filed by a party acting *in propria persona,* and denied it. Second, petitioners contend throughout their argument that Judge Gribbs held that corporations may not have access to Michigan courts without a licensed attorney. Again, this is factually inaccurate. Judge Gribbs' oral comments, excerpts from which appear on page 3 of the Petition, were confined to the question of whether Ms. Erie could provide legal representation to persons other than herself.

Subsequent to the hearings described above, petitioner Erie sought simultaneous review, on an emergency basis, in the Michigan Court of Appeals and Michigan Supreme Court. The applications filed by her consisted of a jumbled collage of hundreds of pages of corporate minutes, reprints of law review articles, lists of alleged CIA agents, Freudian analyses of Judge Wise's alleged psychiatric problems and quotations from treatises on satanism and witchcraft. Both appellate courts dismissed Ms. Erie's applications. The orders of dismissal are annexed to the Petition as Appendices A and B.

On or about April 8, 1977, petitioner Erie filed an "Application for Emergency Appeal or, In the Alternative, Claim for Superintending Control" with this Court. That application, like the instant Petition, sought this Court's review of petitioner Erie's claim of the right to represent the other defendants in this cause. By letter dated April 25, 1977, Ms. Erie's application was returned, with the notation "Application denied April 23, 1977 Potter Stewart." A copy of the letter of notification is annexed hereto as Appendix B.

This matter remains pending in the Circuit Court for the County of Wayne, Michigan and is awaiting trial.

ARGUMENT

1. The substantive issue upon which petitioners seek this Court's review was neither presented to nor decided by the Courts of Michigan; hence, this Court's consideration of that issue as raised in the instant Petition would be inappropriate.

This Court has long recognized and consistently declared that, in reviewing the judgments and opinions issued by the courts of the several states, this Court's consideration should be reserved for those Constitutional issues fairly presented to, and squarely decided by, the courts of last resort of those states. *Black* v *Cutter Laboratories,* 351 U.S. 292, 76 S.Ct. 824, 100 L. Ed. 1188 (1956); *Durley* v *Mayo,* 351 U.S. 277, 76 S.Ct. 806, 100 L. Ed. 1178 (1956); *Buck* v *California,* 343 U.S. 99, 72 S.Ct. 502, 96 L. Ed. 775 (1952); *Wilson* v *Cook,* 327 U.S. 474, S.Ct. 663, 90 L. Ed. 66 (1952). This doctrine is rooted both in the basic concept of federalism upon which our system of jurisprudence is based and in the elementary notion that a court's decisions

should not be evaluated as to issues not fairly presented for its consideration in the first instance.

In the case at bar, petitioners seek this Court's condemnation of "[t]he refusal of the Michigan Courts to permit a corporation to represent itself in litigation . . ." In respondent's view, this phrasing of the issue wholly mischaracterizes the matters presented to and decided by the Michigan courts in this cause and substantially exceeds the proper bounds of aggressive advocacy.

The comments of the trial judge concerning Ms. Erie's attempts to represent persons other than herself are fairly presented in the excerpts from his remarks quoted on page 3 of the Petition. Plainly stated, Judge Gribbs ruled only the Ms. Erie could not represent, as counsel, her mother and five corporations of which she is neither a shareholder, officer nor director.[1] It is worthy of mention that this ruling was delivered from the bench as an observation in the course of argument on the defendants' motion for disqualification of the trial judge. No order concerning this issue was ever requested by petitioners or entered by the court.

It ought further to be noted that, contrary to the assertion in the Petition, Judge Gribbs did not dismiss petitioner Erie's motion for disqualification because she is a non-lawyer. Indeed, the trial court's comments to Ms. Erie set forth in the Petition include the court's statement that ". . . you may appear on the 15th on your own behalf . . ." for the purpose of pursuing the motion for disqualification. Judge Gribbs' Order clearly states that petitioner Erie's motion was considered and denied.

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[1] The Petition includes the statement (at page 4) that Ms. Erie is "managing agent" of Petitioner Parking Realty Co. and the other four defendant corporations. No mention of this term, nor any facts which would support its use, appears in the record below.

In this posture, this matter was brought simultaneously to the Michigan Court of Appeals and Michigan Supreme Court on pleadings authored by petitioner Erie and variously entitled Application for Emergency Appeal, or in the Alternative, Claim for Superintending Control and Cross-Application for Emergency Appeal or, in the Alternative, Claim for Superintending Control. As noted above, these pleadings were exceedingly voluminous, contained reams of extraneous materials dealing with random issues, and requested extraordinary relief on an interlocutory basis.

Michigan General Court Rules 806.3 and 852.1 set forth the standards which must be met by an applicant seeking interlocutory review by the Michigan Court of Appeals and Michigan Supreme Court respectively. In general, these provisions require a showing of one or more of the following factors: 1) involvement of a controlling question of law or an issue of major significance to the jurisprudence of the state, 2) clear error in the decision below, 3) involvement of a challenge to the validity of a legislative act or an issue of substantial public interest, and 4) likelihood of substantial harm if an adjudication is delayed. The power of superintending control over inferior courts in granted to Michigan appellate courts in Michigan General Court Rule 711. The authorities uniformly indicate that this power is discretionary, that its office is to control inferior courts from exceeding their jurisdiction and that it should not be utilized where adequate alternative remedies are available. *Genesee Prosecutor* v *Circuit Judge,* 386 Mich. 672, 194 N.W.2d 693 (1972); *Quigley* v *Township of Dexter,* 43 Mich. App. 654, 204 N.W. 2d 257 (1972); *Bennett* v *School Dist of City of Royal Oak,* 10 Mich. App. 265, 159 N.W.2d 245 (1968). It is against the background

of the foregoing facts and the above-described rules of procedure applicable to their consideration of cases, that the orders of the Michigan appellate courts must be evaluated.

The order of the Michigan Court of Appeals (Appendix B to the Petition) dismissed Ms. Erie's various applications on two bases: 1) that petitioner Erie had failed ". . . to persuade the Court of the need for immediate appellate review . . .," and 2) that the applications and briefs filed by her were ". . . grossly lacking in compliance with . . ." applicable procedural rules. Discussion of the first of these grounds may be deferred and considered in connection with the similar ruling of the Michigan Supreme Court. As to the latter ground, while no mention thereof is made in the Petition, undersigned counsel assures the Court that the procedural irregularities in Ms. Erie's pleadings were both substantial and fundamental. Clearly no federal question of substance is presented by this latter holding. *Herb* v *Pitcarin,* 324 U.S. 117, 65 S.Ct. 59, 89 L.Ed. 789 (1944).

The order of the Michigan Supreme Court (Appendix A to the Petition) also reflects two grounds upon which Ms. Erie's applications were dismissed, namely: 1) that she had ". . . failed to persuade the Court that the questions presented should now be reviewed by the Court . . .," and 2) there had been no showing that the defendant-appellants ". . . will suffer substantial harm by awaiting final judgment or determination before taking an appeal." As to the first of these grounds (and the similar ruling by the Michigan Court of Appeal), it is patent that the court's ruling evidences merely the conclusion that the facts presented did not merit the exercise of its conceded discretion to grant or withhold extraordinary relief on an emergency basis in

an interlocutory matter. As to the latter ground, the court's opinion simply reflects its failure to perceive imminent and substantial harm to the defendant-appellants. It may be inferred that this conclusion is grounded in the fact that Judge Gribbs did accord Ms. Erie a full and complete opportunity to present her motion on her own behalf, and that little prejudice could result from her inability to present the same motion on behalf of parties other than herself.

In effect, the instant Petition requests this Court to issue an advisory opinion to the Michigan appellate courts directing them as to how and when to exercise their discretion in considering emergency appeals in interlocutory matters. Petitioners' claim that this case presents the abstract issue of "corporate self-representation" is plainly belied by the record. By their orders, the Michigan appellate courts plainly indicate that their consideration of this matter was confined, and properly confined, to a determination of whether the facts here presented warranted the exercise of their discretion in granting extraordinary interlocutory relief. That exercise of discretion, we submit, is not properly reviewable by this Court on a Petition for Writ of Certiorari. Moreover, Mr. Justice Stewart's denial of petitioner Erie's previous application to this Court for review of the issue raised in her current Petition provides additional support for the conclusion that the Petition now before the Court ought to be dismissed.

Finally, given the voluminous, rambling, and obfuscatory nature of petitioner Erie's pleadings in the Michigan appellate courts, all of which pervades and clouds the record, this Court, in its discretion, should deny the Petition. *Rescue Army* v *Municipal Court of Los Angeles,* 331 U.S.

549, 67 S. Ct. 1409, 91 L. Ed. 1966 (1947); *International Board of Teamsters* v *Denver Milk Producers, Inc.,* 334 U.S. 809, 68 S. Ct. 1015, 92 L. Ed. 1741 (1948); *DeBacker* v *Brainard,* 396 U.S. 28, 29-30, 90 S. Ct. 163, 24 L. Ed. 2d 148 (1969); *Simmons* v *West Haven Housing Authority,* 399 U.S. 510, 90 S. Ct. 1960, 26 L. Ed. 2d 764 (1970).

2. The claim of petitioner Erie of a right to represent, as counsel, persons other than herself fails to raise a federal question of substance.

Rule 19.1 of the United States Supreme Court Rules provides:

> "A review on Writ of Certiorari is not a matter of right, but of sound judicial discretion, and will be granted only where there are *special and important reasons* therefor." (Emphasis supplied).

Subsection (a) of Rule 19 indicates the character of reasons which will be considered by the Court in exercising such discretion:

> "Where a state court has decided a federal question of substance not theretofore determined by this Court, or has decided it in a way probably not in accord with applicable decisions of this Court."

In analyzing what consitutes a "substantial" federal question for purpose of Supreme Court review, this Court has repeatedly held that a question is not substantial where previous decisions of the Court are uniform and consistent in resolving it. *California Water Service Co.* v *City of Redding,* 304 US. 252, 58 S. Ct. 865, 82 L. Ed. 1323 (1937); *Zucht* v *King,* 260 U.S. 174, 43 S. Ct. 24, 67 L. Ed. 194 (1922); *Minneapolis, St. Paul and Sault Ste. Marie Railway Co.* v *C. L. Merit Co.,* 254 U.S. 376, 41 S. Ct. 142, 67 L. Ed. 312 (1920); *Leonard* v *Vicksburg, Shreveport, and Pacific*

Railroad Co., 198 U.S. 416, 25 S. Ct. 758, 49 L. Ed. 1108 (1904). The question which petitioners seek to foist upon this Court is precisely of this character. Properly framed, ". . . its unsoundness so clearly results from the previous decisions of this Court as to foreclose the subject." *California Water Service Co., supra,* at 255.

This Court has long recognized:

> ". . . that the states have a compelling interest in the practice of professions within their boundaries, . . . they have broad powers to establish standards for licensing practitioners and regulating the practice of professions. . . . The interests of the states in regulating lawyers is especially great since lawyers are essential to the primary governmental function of administering justice, and have historically been 'officers of the court.' "

Goldfarb v *Virginia State Bar,* 421 U.S. 773, 792, 95 S. Ct. 2004, 44 L.Ed. 2d 572, 588 (1975); *Sperry* v *Florida ex rel., Florida Bar,* 373 U.S. 379, 383, 83 S. Ct. 1322, 10 L. Ed. 2d 428 (1963); *Cohen* v *Hurley,* 366 U.S. 117, 123-124, 81 S. Ct. 954, 6 L. Ed. 2d 156 (1961); *Law Student's Research Council* v *Wadmond,* 401 U.S. 154, 157, 91 S. Ct. 720, 27 L. Ed. 2d 749 (1971). Clearly, the single most important aspect of proper regulation of the practice of law is the power of the state to prohibit unlicensed and unqualified individuals, such as petitioner Erie here, from acting as attorney and counselor to others. Petitioners ignore this Court's emphatic acknowledgment of this fundamental state power and argue, in effect, that the Constitution confers upon Ean Erie an unfettered right to represent others. Claims of such a right have been uniformly rejected by this Court as being utterly without merit.

In *Hacken* v *Arizona,* 389 U.S. 143, 88 S. Ct. 325, 19 L. Ed. 2d 347 (1967), a non-lawyer, having represented an indigent prisoner in an Arizona state court was convicted under an Arizona statute making the unauthorized practice of law a misdemeanor. The Supreme Court of Arizona denied a Petition for Habeas Corpus, affirming the conviction. Appeal was made to this Court and, in a *per curiam* opinion, was dismissed for want of a substantial federal question. In *Martin* v *Walton,* 368 U.S. 25, 82 S. Ct. 1, 7 L. Ed. 2d 5 (1961), a lawyer, admitted to the Bars of Kansas and Missouri, brought an action in mandamus in Kansas to compel a judge of the Kansas probate court to permit him to try cases in the Kansas probate court without the association of Kansas counsel. Kansas statutes and court rules provide that an attorney admitted to the Kansas bar, who is also a member of the Bar of another state and regularly engaged in the practice of law in that state, must associate with local counsel in Kansas before he can appear in Kansas courts. The Supreme Court of Kansas affirmed a lower court's order quashing the Writ in spite of a claim that the Kansas statutes and court rules were in contravention of the Fourteenth Amendment. In a *per curiam* opinion, this Court dismissed the appeal for want of a substantial federal question, holding that the statute and rules at issue were ". . . not beyond the allowable range of state action under the Fourteenth Amendment." *Martin, supra,* at 26.[2]

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[2] In numerous cases prior to *Martin* and *Hacken,* both *supra,* this Court has recognized and upheld the state's power to regulate the privilege to practice law, to ensure that only qualified individuals presume to counsel others as to their legal interests. *Konigsberg* v *State Bar of California,* 353 U.S. 252, 77 S. Ct. 722, 1 L. Ed. 2d 810 (1957); *Dent* v *West Virginia,* 129 U.S. 114, 9 S. Ct. 231, 32 L. Ed. 623 (1889); *Lathrop* v *Donohue,* 367 U.S. 820, 81 S. Ct. 1826, 6 L. Ed. 2d 1191 (1961); *United Mine Workers* v *Illinois State Bar,* 389 U.S. 217, 88 S. Ct. 353, 19 L. Ed. 2d 426 (1967).

A final and fatal blow to the patently frivolous claim of petitioners is provided by *Ferguson* v *Skrupa,* 372 U.S. 726, 83 S. Ct. 1028, 10 L. Ed. 2d 93, 95 ALR 2d 1347 (1963). In *Ferguson,* a Kansas statute restricted the business of "debt adjusting" to licensed attorneys. Plaintiff claimed the statute violated both the Due Process and Equal Protection clauses of the Fourteenth Amendment. This Court was unanimous in rejecting the claim, saying: "If the State of Kansas wants to limit debt adjusting to lawyers, the Equal Protection Clause does not forbid it." *Ferguson, supra,* at 732.

Petitioners ignore all these cases and the fundamental concept they reflect in baldly asserting that Ean Erie has a constitutional right to act as an attorney for others. The decided cases of this Court are uniform and emphatic in rejecting such claims. The Petition fails to raise a substantial federal question and should be rejected.

3. A state's reservation of the privilege to engage in the practice of law to natural persons, and the denial of that privilege to corporations, raises no substantial federal question under the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

Respondent earnestly submits that the arguments presented in the foregoing sections of this Brief thoroughly dispose of petitioners' contention that this Court should entertain review of the abstract issue of "corporate self-representation" posed in the Petition. It is without trepidation, however, that respondent addresses that issue on the merits.

We begin with the acknowledgement that the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution includes corporations as persons within

its purview and prohibits discrimination among persons by classifications which lack rational basis. This Court has recognized, nonetheless, that distinctions between corporate persons and natural persons, where based on rational distinctions, are constitutionally sound. *Phillips Petroleum Co.* v *Jenkins,* 297 U.S. 629, 56 S. Ct. 611, 80 L. Ed. 943, *reh. denied,* 298 U.S. 691, 56 S. Ct. 745, 80 L. Ed. 1409 (1936); *Crescent Cotton Oil Co.* v *Mississippi,* 257 U.S. 129, 42 S. Ct. 42, 66 L. Ed. 166 (1921); *Ownbey* v *Morgan,* 256 U.S. 94, 41 S. Ct. 433, 65 L. Ed. 837 (1921).

In the matter at hand, the Michigan legislature has reserved the privilege to practice law to those natural persons licensed by it (M.C.L.A. §600.916) and has forbidden corporations from practicing law for others (M.C.L.A. §450.681). The Michigan Supreme Court has concluded that corporations must appear in its circuit courts by a licensed attorney. *Detroit Bar Ass'n* v *Union Guardian Trust Co.,* 282 Mich. 216, 276 N.W. 365, *reh. denied,* 282 Mich. 707, 711, N.W.432 (1938). Respondent suggests that this classification is both rational and necessary. Perforce, a corporation *cannot* practice law; it must, if it is to appear in court, appear through some natural person. It would be equally ludicrous to suggest that a corporation could practice surgery. The Michigan regulation of the practice of law simply requires that all such natural persons who seek to practice law for others than themselves be licensed to do so. The Supreme Court of Michigan has recently noted that the substantial state interests which underlie this regulatory scheme include the protection of the public and the assurance that practitioners of the law are subject to disciplinary procedures. *State Bar of Michigan* v *Cramer,* 399 Mich. 116, 132, 134, ... NW 2d ..... (1976). The legitimacy of these important state interests is beyond dispute.

It is of no moment, we submit, that the Michigan legislature has permitted corporations to appear in its small claims courts without counsel (M.C.L.A. §600.8408), since this very section *prohibits* the participation of attorneys in small claims cases, except on their own behalf. Hence, unless corporations were permitted to appear through non-lawyers, *they could not appear at all.*

We further submit that petitioners' reliance on this Court's opinion in *Kentucky Finance Corp.* v *Paramount Auto Exchange Corp.*, 262 U.S. 544, 43 S. Ct. 636, 67 L. Ed. 112 (1923), is misplaced. There, this Court faced a state statute which placed on corporate litigants a vexatious and irrational burden in connection with the situs of the production of its corporate records. Here, the Michigan regulatory scheme imposes no analogous burden. Rather, it has merely identified the indisputable fact that corporations are inherently incapable of appearing in court except through a natural person and that, in consequence, they must so appear through a natural person licensed and authorized to practice law. This conclusion does not offend the Equal Protection Clause and is in harmony with this Court's decision in *Osborn* v *The Bank of the United States*, 22 U.S. (9 Wheat.) 738, 6 L. Ed. 204 (1824). Petitioners cite no authority to the contrary.

Lastly, petitioners ask this Court to engage in a debate with the State of Michigan as to the wisdom of confining the practice of law to natural persons. In the great tradition of federalism, this Court has declined such invitations. In *Ferguson, supra,* the Court stated:

> "We are not concerned . . . with the wisdom, need, or appropriateness of the legislation. . . . this Court does not sit to subject the State to an intolerable supervision hostile to the basic principles of our

> Government and wholly beyond the protection which the general clause of the Fourteenth Amendment was intended to secure." *Ferguson, supra,* at 730.

Petitioners simply ignore this settled and fundamental principle of federalism and insist "there is no good reason . . . why Parking Realty Co. should not be permitted to have petitioner Ean Erie represent it . . ." (Petition at 9) The State of Michigan, in its wisdom, has decided there are very good reasons to regulate who may appear in its courts as attorneys for others. That wisdom, and the power to effect it, has always been respected by this Court.

CONCLUSION

The issue which the Petition requests this Court to address was never considered by the Michigan appellate courts. Those courts properly confined their attention to an examination of whether the facts presented to them justified the exercise of their discretion in granting emergency interlocutory review of the trial judge's actions in this cause. This Court has never considered the exercise of such discretion properly reviewable.

Respondent further submits that the claim asserted by Ms. Erie that she may represent, as counsel, her mother and five corporations of which she is neither a shareholder, director nor officer is patently frivolous and wholly fails to present a substantial federal question. Finally, we urge that the statutes and appellate decisions under which Michigan has reserved to licensed attorneys the privilege of engaging in the practice of law do not present a colorable claim of improper classification or discrimination against corporations under the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution. We urge that the Petition be denied.

Respectfully submitted,
Miller, Canfield, Paddock and Stone
Gilbert E. Gove
Carl H. von Ende
R. Richard Livorine
300 Wabeek Building
Birmingham, Michigan 48011
Attorneys for Plaintiff-Respondent

Dated: August 10, 1977

APPENDIX A

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE
COUNTY OF WAYNE

HOWARD SHERLINE, Individually
and as Executor and Trustee,
Plaintiff,
vs. No. 75-071-519-CK
PARKING REALTY COMPANY, et al.
Defendants.
Carl H. von Ende (P-21867)
Attorney for Plaintiff

ORDER DENYING SUPPLEMENTAL MOTION TO DISQUALIFY THE JUDGE

At a session of said Court held in the City of Detroit, County of Wayne, State of Michigan on March 4, 1977.

PRESENT: HONORABLE ROMAN S. GRIBBS, Circuit Court Judge

This matter having come before the Honorable Roman S. Gribbs by designation by Presiding Judge James N. Canham for consideration of the Supplemental Motion to Disqualify the Judge filed by defendant Ean Erie, a/k/a Hope Van Riper, and hearings on said Motion having been conducted on February 4, 1977 and February 15, 1977; and the Court having heard argument from defendants Erie and Turkel and from counsel for the plaintiff; and the Court having fully considered the contents of the aforesaid Supplemental Motion and the Reply and Brief filed in opposition thereto by counsel for the plaintiff; and the Court being fully advised in the premises;

IT IS HEREBY ORDERED that the Supplemental Motion to Disqualify the Judge filed in this cause by defendant Ean Erie be, and the same hereby is, denied.

IT IS HEREBY FURTHER ORDERED that the oral motion by plaintiff's counsel for the award of costs and actual attorneys fees in connection with said Supplemental Motion is reserved for consideration by the judge to whom this case is assigned.

/s/ ROMAN S. GRIBBS
Circuit Court Judge

A TRUE COPY
JAMES R. KILLEEN, Clerk
By: /s/ .....
Deputy Clerk

APPENDIX B

SUPREME COURT OF THE UNITED STATES
OFFICE OF THE CLERK
WASHINGTON, D. C. 20543

April 25, 1977

Ms. Ean Erie
1420 David Whitney Building
Detroit, Michigan 48226

Re: Ean Erie, formerly Hope Van Riper v. Howard Sherline, et al., A-871

Dear Ms. Erie:

Your applications in the above-entitled case have been presented to Mr. Justice Stewart, who has endorsed thereon the following:

"Application denied
April 23, 1977
Potter Stewart"

Please notify opposing counsel of this action.

Very truly yours,
MICHAEL RODAK, JR., Clerk
By: /s/ PETER K. BECK
Assistant Clerk